

MINUTES

PUBLIC WORKS / PARKS & RECREATION COMMITTEE

January 23, 2013

A meeting of the Public Works / Parks & Recreation Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Ross Kagawa, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, January 23, 2013, at 12:08 p.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Nadine Nakamura
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro, Ex-Officio Member
Honorable Mel Rapozo, Ex-Officio Member

Minutes of the January 9, 2013 Public Works / Parks & Recreation Committee Meeting.

Upon motion duly made by Councilmember Bynum, seconded by Councilmember Yukimura, and unanimously carried Minutes of the January 9, 2013 Public Works / Parks & Recreation Committee was approved.

The Committee proceeded on its agenda item as follows:

Bill No. 2460 A BILL FOR AN ORDINANCE AMENDING CHAPTER 12, OF
THE KAUAI COUNTY CODE 1987, AS AMENDED, ENTITLED
"BUILDING CODE" [This item was deferred to
February 20, 2013.]

Mr. Kagawa: I received a call and we have received a communication from the County Attorney and our County Engineer. They have both asked for a deferral on this Bill because they have some amendments and they needed two (2) weeks to prepare those amendments. What those amendments entail, I am not sure of. They have not gone into detail. But we do have some people that, before we take the deferral, that wish to speak on this item. I guess they can help us to prepare any more amendments on our end, should we need them. So, if that is okay with the Committee.

Mr. Furfaro: I would like to pass out to your Committee members and the other Councilmembers, as you know, I had last week I had raised a question on some of these intents that were in Act 114 as it relates to greenhouses and tractor storage and so forth, allowing the pouring of concrete. But at the same time I pointed out that there were some conflicts I thought with our intent on Bill 2460, as it relates to Farm Worker Housing. So, I prepared a two (2) page comparison that surfaces my concerns, especially since we did not want to talk about concrete foundation on temporary farm worker housing. But at the same

time, for health concerns, food security, and so forth, concrete may be needed in some of these other facilities. So, I just wanted to introduce that talking piece to your Committee and other members.

Mr. Kagawa: Thank you, Mr. Chair. Scott, do you have anything for us regarding the Bill. I believe last week you kind of brought up some reservations about having the dollar amount paragraph, which was not in the State Law. I think I heard from some of the people in the farm community that, that may not make the Bill effective if we have that language. I do not know if you want to elaborate on that.

There being no objections, the rules were suspended to take public testimony.

SCOTT MCFARLAND: Yes. Thank you for this opportunity. On behalf of the State Farm Bureau of Federation, as well as my colleagues here in Kaua'i County at the Farm Bureau level, we would like to re-emphasize that having the dollar amount in that one (1) particular paragraph before Subsection (a) does thwart some of the intent in what we are wanting to achieve with expanding local food production here on the island of Kaua'i. I did have an opportunity to visit, I should say The State Farm Bureau, did have an opportunity to visit with the Attorney's General's Office about the proposed local Ordinance. It appears that the section that you are relying on does come from, I believe, Section 464-13, if I recall correctly. Certainly that is valid Law. Kaua'i County as part of its Ordinance could certainly include that within your local Ordinance, which is the companion to Act 114. We understand why they potentially would want to include that. But at this time, the State Farm Bureau and the County Farm Bureau would like more consideration given to a spirit and intent of Act 114 to stimulate these low-risk structures from being built. A little bit of additional history is, 114 was brought in to basically exempt these low-risk structures from the building permit process, not to exempt them from the Code. So, I think the opportunity the learning opportunity for all of us at the State Farm Bureau and as we implement this Act statewide, not just in Kaua'i County, is to work closely with the Building Division and the County Engineers to explain what this Act is about and to bring forward some model draft legislation to the Council levels to have the policy implemented in an effective way.

Mr. Kagawa: Thank you. Members any questions?

Ms. Yukimura: Tell me once more what you just said. You want to...the intention was to exempt from something, but not from the Code?

Mr. McFarland: Right. When we originally brought forward the legislation, and this goes back to the last legislative process, there was an attempt to exempt them from both the Building Permit Process and the Code. The A.G.'s Office said, "no." As a compromise we could all agree on Act 114. Act 114 did set up a Task Force Committee. That Task Force met. They got through...we are exempting them from building permits. But they could not agree due to County diversity and agricultural diversity across the State, what should be exempted from the Building Code. So, that is the path forward was let us let the Counties decide to give us this list that a minimum needs to be shade houses, aquaponic systems, and storage sheds. But there may be additional things in local agriculture on the various islands that could also be included in this list. So, that was the thought that we were going down as we had the Counties implement these policies. We would be working with them in what other types of structures could be exempted from the Building Permit process. The initial language that came out of our

hearing here in Kaua'i County Model Ordinance did take us off off-track a little bit. But I think we can reconcile it with a little more time in working with the County Engineer and Building Department to get a model here in Kaua'i County that works to stimulate local food production.

Ms. Yukimura: What I take from looking at the State Law and proposed Bill, which I acknowledge will be deferred or received, I do not know which. Is that, there was an effort to exempt these, as you put it, low-risk agricultural buildings from the Building Permit, but not from the plumbing and electrical codes?

Mr. McFarland: That is correct.

Ms. Yukimura: Because apparently, and I am surmising this, because plumbing and electrical really affect safety and health.

Mr. McFarland: Exactly.

Ms. Yukimura: Okay. So you are expressing today as was expressed last meeting, concerns about this...the paragraph that includes the cost limitations.

Mr. McFarland: Correct.

Ms. Yukimura: Okay.

Mr. McFarland: That language is uplifted directly from State Law and it is related to some of the professional aspects to Engineers and Architects, I believe.

Ms. Yukimura: Which I think underlying that is the concern about safety.

Mr. McFarland: That is correct.

Ms. Yukimura: But, it is not totally uplifted because does the State Law does not have...does the State Law have those cost limitations?

Mr. McFarland: It does have those cost limitations, yes.

Ms. Yukimura: Okay, alright. But anyway, the bottom line today is that you will be...you and the Public Works Department and others will be working on a new proposal, so to speak?

Mr. McFarland: Some new suggestive language that will address the concerns of the community. I think we can accomplish this through a different pathway in terms of language that does not offend any part of State Law.

Ms. Yukimura: Okay. Very good, thank you.

Mr. Hooser: I had a few questions. I was going to ask where the Bill came from initially. But, do you know where it came from? Did the Farm Bureau working with Public Works...is this...

Mr. McFarland: It was originally...it was...it came out SB...

Mr. Hooser: But this Ordinance here, the language that we are looking at, came from who?

Mr. McFarland: I believe the language that came from what you are looking at, came from the County Engineers. I believe that is where the language came from. We look forward to opening dialogue with the leadership over there to get to a path forward related to that language

Mr. Hooser: Because they are not here and you are. If I could, ask a few questions? If you are familiar, so it looks like this is intended to exempt these structures from Building Permits, like you said. But yet, they have to comply with all Codes so in essence they are doing everything, but getting the permit?

Mr. McFarland: That is correct.

Mr. Hooser: So it must be...so all they are doing, it is not going to have a piece of paper. But, they are going to comply with all Codes and then they are going to certify, provide a Certification Of Compliance.

Mr. McFarland: Correct.

Mr. Hooser: Is this certification, is that self-certification? Basically they come with a piece of paper and say we certify that we complied with all Codes?

Mr. McFarland: That is what we would envision. I think that is a process administrative element that is yet to be determined. But that is how I envision it happening. At the same time, there is an inspection opportunity by the Building Division to indeed inspect what the person is certifying to. I think at that point, Councilman Hooser, I think that if we are going to have abuse of the local Ordinance, I think we will learn very quickly if there is going to be abuse and if we need to readdress the Ordinance to stiffen some of the provisions related to the dollar amount, we could do this then as well.

Mr. Hooser: Because this is not just plumbing and fire, but it is everything?

Mr. McFarland: It is.

Mr. Hooser: And then the reference to the dollar amount, the thresholds, it also includes two (2) story buildings

Mr. McFarland: That that is lifted from the State Code, 464-13. That is where that language came from. You could imagine a barn with an hay mount upper level storage, something like that.

Mr. Hooser: And then on (D) it says, basically crop protection, chemical supplies...is that insecticide and herbicide mixing facilities and delivering systems would be exempt from getting permits?

Mr. McFarland: I will get back to you, Councilmember Hooser. That is an excellent question. I do not have the answer for that today.

Mr. Hooser: I think, certainly on the surface, greenhouses, minor sheds, tables, structures seem fairly innocuous. But when you start drilling down it, there may be public safety and health issues here. Non-masonry fences not exceeding ten (10) feet in height. I assume this would be for dust and for wind break kind of things. Is there any thought on how we differentiate that from people who just want more privacy? Build a ten (10) foot fence without a permit to keep people from looking or blocking views

Mr. McFarland: Excellent question. I think working with the Building Department and the Planning Department, I think we can get to some more refined language that supports that objective. We hear you on that, and I think we can be stronger in that language.

Mr. Hooser: Great. Thank you so much. Finally, we spoke last time about industrial agriculture. Very large agricultural operations that may not even be producing food and doing various things that deserve a higher level of protection. So, you said last time you would be comfortable to define that and excluding those very large operations from some of these exemptions that were intended to help small food producers with their operations. Are you still working on that?

Mr. McFarland: Absolutely. We can certainly add some elements to the language from operations of a particular size. This Act was certainly brought forward by Farm Bureau to support small farms who are thwarted by some of the bureaucracy on the various islands related to getting more local food produced. So absolutely, I do not think there would be any issue with that.

Mr. Hooser: Carried to its extreme, there are radiation facilities on agricultural land and other kinds of facilities that might deserve some closer scrutiny and that kind of thing.

Mr. McFarland: Thank you. We will work to get those examples not included in the local Ordinance of what you want to achieve.

Mr. Kagawa: Any more questions for Scott?

Ms. Yukimura: Scott, if you are all going to be relooking at the language of the proposed amendment, I guess one (1) of my questions is, there is a paragraph on page 2 of the Bill at the top. But it says, "failure to provide written notice..." well this is a paragraph that "requires upon completion of construction or installation, the owner or occupier shall provide written notice of the type, size, location, structure of the building and a Certification Of Compliance with applicable State and County Codes to the Fire Department and the Department of Public Works Building Division." If that failure to provide such written notice may void the Building Permit exemption and result in an unpermitted building violation with associated fines. So my question is who decides whether it is void or not? Whether the exemption is void? Mr. Dill is pointing to himself. Okay. So, maybe that is clear somewhere else in the Code. I just wanted to make sure there is accountability as to who would be voiding this. In the State Law it requires that non-residential manufactured pre-engineered commercial buildings are exempt if

there are electrical plumbing related services are inspected in accordance with existing County plumbing and electrical Codes. But it does not include Chapter 342(d) of the Health Department. So, that was a discrepancy that I noticed also.

Mr. McFarland:

Okay.

Ms. Yukimura: Lastly, someone asked me from the public whether this applies to farming operations in open zones. Non-urban open zoned lands. My understanding of the Bill is that it does not give these...its parameters do not apply or not apply based on zoning. They apply or do not apply based on whether it is a commercial farm.

Mr. McFarland:

That is my impression was well.

Ms. Yukimura: I developed a draft of a definition of "commercial farm." I believe it would be permitted as long as it does not contradict State Law. I took it from the Farm Worker Housing Law because we grappled with that and our purpose was to distinguish it from non-agricultural enterprises on agricultural lands, such as transient vacation rental and others because arguably, they could argue that they are a farm on agricultural lands and then ask for these exemptions as well. So, I am going to turn over my rough draft for you to look at, because I do want Farm Bureau, even if I was going to just introduce it on the floor here, I wanted to get Farm Bureau input. So I am just going to give it to you all while you are working with the Administration to look at and see. That would be great.

Mr. Kagawa:

Any more questions?

Mr. Hooser: One (1) more follow-up. The certification of compliance, I was just reviewing it and I do not see...maybe I am not reading it fully. I do not see any right to inspect. I just see that they have to provide a certificate of compliance. I am not sure with a Building Permit, say you have a proper Building Permit, does that give the Public Works and they are here today and maybe they can answer, other rights that we do not have? But I do not see a right to inspect in this it is stands.

Mr. McFarland: I will let the County Engineer address that. I am sure he is very well versed in the Police power and inspection powers that the County has.

Mr. Kagawa:
Everyone is done.

Chair, would you like to add anything?

Mr. Furfaro: I have a lot of worries. I voiced them to you last time you folks were here. I gave Melissa this comparison of our Farm Worker Housing, which again, encourages workforce. But I think Mr. Hooser just brought up a couple questions that are along the same lines and the work assignment now to our County Engineer for this County. I just wanted to tell you, I am very worried that we do not quite understand that the forty thousand dollar (\$40,000.00) cost for work and the requirement to have certified Engineering, that is a State Law. I just want to make sure that because it leads to like...just quite frankly, somebody coming in and saying do I have your blessing, and you go. But you do not know what prices they negotiated, what grade of the Building Code they used. I mean, who does all of that documentation? Do you understand what I am saying?

Mr. McFarland: Absolutely.

Mr. Furfaro: You are saying that it is important and this Council has demonstrated how importantly we feel doing things for the farm community is. But there does not seem to be some of the other parts other than just saying here is my written documentation, this is what I did. It was only thirty-nine thousand nine hundred ninety dollars (\$39,990.00) and I need your blessing. What are the other controls? Can you share anything with me? What are the other controls?

Mr. McFarland: You bring up a great point. In the Building Permit Phase, you estimate what the work is going to be. Then that, you also pay the fee. In this fee, in this system where there is no...where you are not having a Building Permit process, you basically build and then go in after the fact and certify, that hey, this is what we did and sign on the dotted line. That is going to be the opportunity. I think for us in the agricultural community to work with the County Engineer and the Building Department on how we can ensure there is not abuse in this initial draft of the Ordinance. So, I will let others responds as well when they are up here. But I think we can get there, Chair.

Mr. Furfaro: Well, I hope so because I just want to say, I have been a proponent of farming, small farming since I have been on this Council. All I am asking for is for a few checks and balances that I think are appropriate to at least raise. Now, I understand with the food security and self-sufficiency action that the State has introduced, I am very excited about it. I can understand with you park the tractor, it needs concrete. Where do you store food before it goes to market? I understand that. But I do not want to get to a point that now somebody interprets that we can make the dwelling for the farm worker permanent. Who is controlling that? Are we...who is required to have the actual work amount documented? I mean it is like after a hurricane, you get the person to come in, this is what I am building and here is the estimate. That is part of the documentation. Engineering is required to inspect. Is there a fee to charge so we can send inspectors on the road? A lot of questions here. Does it have my support? Absolutely. But I think a lot of pieces we have to tie up before we just move it forward.

Mr. McFarland: We agree. We do not want to see abuse of any aspects of the Act or the local Ordinance. We at the Farm Bureau, are certainly committed to helping the County achieve that end.

Mr. Furfaro: And then, you see is on my sheet there, the fees about the cost of the construction and so forth. Those are State Rules.

Mr. McFarland: Right.

Mr. Furfaro: You know, and we are finding ourselves doing more and more things to administer State programs, whether it is the coqui frog or...so I mean, we just need tighten things up a little bit. That is what I am looking for.

Mr. McFarland: Exactly.

Mr. Kagawa: Anyone else from the public wishing to speak? Please state your name.

JERRY ORNALLES: I do not want to take up your precious time by going over what is already been talked about. But basically we would like that one (1) paragraph removed, regarding the forty thousand dollar (\$40,000.00) construction cost or to increase...to at least double that figure. The reason I say this is because I think we need to look at the intent of this Law, right? Which is to make our life easier as farmers. Any structure today that you build, what is the average construction cost today? We are talking about eighty dollars (\$80.00) a square foot, right? And that is a conservative estimate. If you have done any work recently. A thousand (1,000) square foot structure therefore, is what, eighty thousand dollars (\$80,000.00). So, I think the intent of the Law was to allow us to build without cumbersome permits. Now, Gary, regarding structures that have special uses, and I believe you brought up pesticides, those have rules attached to them already. If I store pesticides, especially restricted-use pesticides, which are a more dangerous category of pesticides, there are rules and regulations in place as to what kind of structure you need, the proper signage, and locks on the building, those type of things. The Department of Agriculture will come and inspect your property. The same applies for any structure used for packing house purposes. As you know, we have got some new rules coming down pipe regarding food safety. Those structures are going to also have to be inspected and certified food safe. So, structures other than very simple storage and warehouse type facilities, already carry rules other than what we are dealing with here.

Mr. Kagawa:

Do we have any questions for Jerry?

Mr. Furfaro: Jerry, thank you for bringing this publication and making me aware it is available. I will circulate it with the staff. But this is the first edition of "Increasing Food Safety And Food Self-Sufficiency As A Strategy." I will leave this with the staff. But it is available electronically as well.

Mr. Ornalles: That is correct. I am worried about the Sunshine thing if I could bring the topic up. But I did bring copies for your colleagues as well. I had given you one (1) earlier. If it is okay, I will have you read this. This is an initiative coming out of the Administration, the Governor's Office. This study was done by the Office of Planning. It is really something that we have been looking forward to. It is not often that the Administration will offer us something that we have been fighting for a long, long time. It is increased food security and increased food self-sufficiency strategy. Three (3) basic objectives, increasing demand for locally grown food, increasing production and, this is where you guys come in, the third objective is developing policy to make sure those two (2) first objectives are met. What we are talking about today is an incremental step in that direction. Thank you so much for your time. I really appreciate it.

Mr. Kagawa: Jerry, I have one (1) question. You are saying that if the County decides that we want it keep that paragraph in there.

Mr. Ornalles:

That is correct.

Mr. Kagawa: You are saying that doubling the forty thousand (40,000) to eighty thousand (80,000) or greater and also increasing that thirty-five thousand (35,000) to seventy thousand (70,000) to double that, also?

Mr. Ornalles: Yes. My suggestion for the amendment would be to increase the single story structure to eighty thousand (80,000), and this I have heard from farmers. Also on the two (2) story structure, seventy-five

thousand dollars (\$75,000.00). I think we may be sending the wrong message by saying that we want you to build really cheap. For someone like myself that survived four (4) hurricanes here on Kaua'i, as many of you have, I think we want to encourage them to build with integrity rather than very cheaply.

Mr. Kagawa: Thank you, Jerry. What I can hear from your voice is a lot of passion in trying to help the average farmer out there. I guess, to make it clear, your first recommendation it to remove the paragraph?

Mr. Ornalles: That is correct.

Mr. Kagawa: Second recommendation is, if we cannot remove the paragraph, to double those numbers? Not double. But one (1) goes to eighty (80) and the other one (1) goes to seventy-five (75).

Mr. Ornalles: That is correct. Incidentally, if you give me a second. Regarding Councilmember Yukimura's comment about zoning, this in no way exempts you in no way from Zoning Ordinances. You still have to comply with all Zoning Ordinances. It is in the proposed legislation.

Mr. Hooser: A quick follow-up. I fully support helping farmers and especially the smaller farmers growing food and that kind of thing. I do have some concerns about an upper threshold, whether major companies building multimillion big structures, packing houses with tons of product and possibly hundreds of workers. There is safety. So, I do have some concerns about allowing those structures done without a permit and simply certification. Do you agree there should be a threshold?

Mr. Ornalles: Yes. I would hate to single out anybody...the Farm Bureau represents all farmers, regardless of what kind of farming you do. I would be hesitant to single any entity out. However, I can tell you, that their Corporate Offices would never let them build a structure that was not fully compliant and up to code. For one (1) thing, and this applies to all of the structures, you are not going to get any structure insured if it does not meet all codes. In fact, the insurance company will probably require that you have it fully permitted. So, even for an average farmer like myself, I would probably go the route of going through the whole process. Simply because I want my structures insured and in any event I would certainly build to code. To answer your question, it is not likely that a huge corporate entity would take any shortcuts on something like this. Although, I suppose it could happen. But it is highly unlikely.

Mr. Kagawa: Is there anybody else who wants to speak on this? County Engineer, thank you for coming. I think we intended to just defer it, have you folks come up in two (2) weeks. But being that I failed as Chair to notify the public, I wanted to give them the opportunity to talk. That is why we had them up here.

LARRY DILL, P.E., County Engineer: I thought I would come forward and explain some of our thinking, things we are wrestling with, why we requested the deferral, and some of the things that have come up in the discussion. The way we look at this is, we understand this is an effort to help the agricultural community streamline some of the processes to enable them to become more efficient. In that spirit, I think that this effort by the legislature is looking at becoming to some degree self-regulating in the building construction process. So, I

think it is important to note, as it has been noted here, that the Act by the legislature in doing their work, did not address H.R.S. 464. It was silent on that and it does not negate the requirements of H.R.S. 464. So, in crafting our work, we decided that we were tasked with how do we reconcile these two (2) things? So, we remain in compliance with H.R.S. 464, but achieve the goals that the legislature was trying to achieve. So, in our first attempt at that, which is before you and what has been discussed here, was by including the requirement that the thirty-five thousand dollar (\$35,000.00), the forty thousand dollars (\$40,000.00) limits that were included in 464. Now, as it has been noted what this Bill does is it excludes them from the requirement of getting a permit, but does not exempt them from compliance with the Building Code. So, the way that we gain compliance Building Codes and assurance there is at the end of the project. They come with a certification that they have met Code requirements even though they have not gone through the permit process. When you look at 464, there is already an exemption that exists in 464, which is also in our Building Code, based on 464, that you do not have to have a Building Permit if your structures are less than thirty-five (35), or forty (40), or those levels or there are some other things about having structural steel or reinforced concrete as principal components. Things like that. In those sorts of things, you would have to come. But otherwise you are exemption. So, you can see we are already dealing with the issue of how do you know that somebody is at thirty-nine thousand nine hundred ninety-nine dollar (\$39,999.00) or forty thousand and one dollar (\$40,001.00) because that exemption is already in place. So, we already deal with that. On a case-by-case when those come up we have to review them on a case-by-case basis. So, implementing this new Act will not change that because we already have to review those things. So, what we have been discussing over at Public Works in regards to that paragraph with the dollar amounts in it, is we have been discussing should we take that out and simply reference H.R.S. 646? Since what the legislature did was not negate any of those requirements. So, we are thinking about how to include some language that might better reference 464 and leave those requirements in place in that manner? So, what the effect would be, again, everybody is still exempt from having to come to the County to get a Building Permit. But what they would have to do after their project is if they exceeded the thresholds in 464 when they submitted their certificate of compliance, they would have to have that done by a licensed Architect or a Structural Engineer. That we feel that is consistent with 464. That they are below the threshold, they would not have to get a licensed Architect or Engineer because right now those structures are already excluded from those requirements. So, we feel that is how we are going to try and meet those requirements. Having said that, we are happy to meet with the gentleman that has testified here today and we can work with him. But just to share with you our thoughts, that is what we are looking at right now. I will also note that it is our understanding that this Act only applies to non-residential structures. So, I do not think it would have an impact on farm working housing from that standpoint.

Mr. Furfaro: I was only talking about the foundation. Our Bill does not permit concrete foundations in the farm worker housing, that is the only portion.

Mr. Dill: Alright. I will be happy to take any questions.

Ms. Yukimura: Larry, 464, again, was a previous State Law passed? An act?

Mr. Dill: Yes. Hawai'i Revised Statute 464.

Ms. Yukimura: The reference to farm worker housing I made was because of the definition of "farm" that is in...and I think we might be helpful to have one (1).

Mr. Dill: I agree. It had been our stance that this applies to the use. But we need to define that.

Ms. Yukimura: The use, yes.

Mr. Dill: The use is somewhat defined in the language, but we will revisit that.

Ms. Yukimura: Agricultural operations is defined. But it only tells...I mean, I think a TVR growing lychee might claim that.

Mr. Kagawa: Any other questions?

Mr. Hooser: The...just a couple of questions. We covered a lot of the material before you got here, so I am not sure if we are able to catch you up with that. The providing the certificate of compliance, as this is written, it says first it must be in compliance with all applicable everything and then they must provide a certificate of compliance. Is that certificate of compliance, is that just a statement from the applicant, if you would, saying that they comply or is that plans? Does that allow inspection if Public Works decided that they wanted to?

Mr. Ornalles: Those are good questions. We have not worked out those details yet. So pursuant to this, we will have to implement some in house policies and procedures for how they get accomplished. But essentially we see it as a statement from either a licensed Architect our Structural Engineer for those projects above the threshold or from the owner that are below.

Mr. Hooser: Because I support the concept of making it easier, especially for the small farmers, but it seems like if they are in compliance and they complied with everything and they have a certificate, what is to prevent them from getting a Building Permit? Is it in a couple more months? What is...just briefly, what advantage is it?

Mr. Ornalles: I would pose that to the farmers who stand to benefit from that. Basically they would save time and expense of having to pursue the Building Permit because there is time and expense associated with that.

Mr. Kagawa: Any more questions? Comments?

Mr. Furfaro: No questions for Larry.

Mr. Kagawa: I have a question or comment for Larry. I am kind of hearing that you want to keep that paragraph in as is. In talking to farmers, you know, they are kind of saying if the paragraph stays in, you might not have anybody that finds it, I guess, advantageous to take advantage of it. Then that way the Bill is basically meaningless. So, I am hoping that...I hear a willingness on your side to talk to them. Hopefully we can come to some type of compromise where we can still have an effective Bill for the farmers. I look forward to that. I know

things can always change when we work together. Mahalo. Any more questions? Thank you, Larry. Thank you very much. Anybody else?

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Kagawa: Before we make a motion to defer, any discussion?

Ms. Yukimura: Is the...I guess, the request is for a deferral, not a receipt. A deferral? Okay. I am ready to move to defer?

Mr. Kagawa: Do we have discussion first?

Mr. Furfaro: This is just a message from me to Engineering, to the County Attorney, and people that have been working from the Farm Bureau. When I agreed to put this Bill on, this came to us at a request of Engineering. Sounds to me Engineering has a lot of work yet to do. I would have preferred that work to have been done before I agreed to put it on the agenda. Now I appreciate Mr. Dill's comments on some of the fine points that are yet to be resolved and so forth. But it would have been a lot easier for us to know those considerations with the Farm Bureau were in place by the time I put this Bill on the agenda. So, I just wanted to share that and obviously, I still do not understand from the Attorney's Office, is how this Council is going to make a requirement from the State on the building cost, how we are going to negate that, just by putting something? We will not. So, we need that kind of understanding from Engineering as well as the County Attorney. The forty thousand dollar (\$40,000.00) requirement is a State requirement. We cannot do anything that diverts from that. So, that is my comments and if we want to continue this for a normal deferral in two (2) weeks, my message to the County Attorney and to the Engineering Department, you got a lot of work these next two (2) weeks.

Mr. Kagawa: Thank you, Mr. Chair.

Mr. Hooser: Yes, just brief comments before we defer. You know, I think myself certainly myself, I think most of us we really want to make it easier for small farmers and get rid of unnecessary or onerous requirements that prevent them from doing their work. Things like greenhouses and sheds and what not. However, I think we do need to look at the whole picture, and moving forward for myself personally, for me to find an end product that I can support, is going to have to have a threshold so it is targeted towards those small farmers. There are farming operations that do experimental farming in greenhouses and I think you want to have those have Building Permits. You have issues of pesticide, you have issues of scale. So, I would like to see this narrowly focused towards local farmers and, yes, have some protections against the other...we have called them industrial farming operations and those kind of things, which I think we can work out as we move forward. I just wanted to make clear, that is my own position.

Ms. Yukimura: I just have a question as to whether a two (2) week deferral is sufficient time? If it is not, should we make it two (2) meetings, four (4) weeks?

Mr. Kagawa: Jodi? You want a month, four (4) weeks? Is that better than two (2) weeks?

Mr. Dill: I will not object to that. I am optimistic that it will be resolved in two (2) weeks. I will not object to a four (4) week deferral.

Mr. Kagawa: Okay members, I guess a four (4) week deferral. Is that what we want?

Mr. Rapozo: I have one (1) more comment?


Mr. Kagawa: Go ahead.

Mr. Rapozo: As a non-Committee member I want just to make sure, I think a lot the concerns that we heard today is about people abusing this Law. As that is...in every Law that we pass there is there is always that opportunity for abuse. So, I would just ask that we look at a penalty section for the abusers that we added in the language that, in fact, the legitimate farmers need the help. I have no problem with that. If we come across those illegitimate farmers that are going to use this for non-farming uses, then I would ask that we apply some sort of Penalty Provision in that Statute as well.

Upon motion duly made by Ms. Yukimura, seconded by Ms. Nakamura, and unanimously carried, Bill No. 2460 was deferred to the February 20, 2013 Committee Meeting.

There being no further business, the meeting was adjourned at 12:54 p.m.

Respectfully submitted,



Allison S. Arakaki
Council Services Assistant I

APPROVED at the Committee Meeting held on February 20, 2013:



ROSS KAGAWA
Chair, Public Works / Parks & Recreation Committee

